



DECLARATION FOR PATENT APPLICATION

#3

As a below-named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name,

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled NOVEL METHODS OF DIAGNOSING AND TREATING BREAST CANCER, COMPOSITIONS, AND METHODS OF SCREENING FOR BREAST CANCER MODULATORS, the specification of which

(check
one)

☐

is attached hereto.

☒

was filed on March 15, 2000 as

Application Serial No. 09/525,361

and was amended on _____.

(if applicable)

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose to the Patent Office all information known to me to be material to patentability as defined in 37 C.F.R. 1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, §119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

Prior Foreign Application(s)

Priority Claimed

(Number) (Country) (Day/Month/Year Filed)

☐☐

Yes

No

(Number) (Country) (Day/Month/Year Filed)

☐☐

Yes

No

(Number) (Country) (Day/Month/Year Filed)

☐☐

Yes

No

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose to the Patent Office all information known to me to be material to patentability as defined in 37 C.F.R. 1.56 which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

<u>09/520,478</u> (Application Serial No.)	<u>March 8, 2000</u> (Filing Date)	<u>Pending</u> (Status) (patented, pending, abandoned)
<u>09/453,137</u> (Application Serial No.)	<u>December 2, 1999</u> (Filing Date)	<u>Pending</u> (Status) (patented, pending, abandoned)
<u>09/450,810</u> (Application Serial No.)	<u>November 29, 1999</u> (Filing Date)	<u>Pending</u> (Status) (patented, pending, abandoned)
<u>09/440,677</u> (Application Serial No.)	<u>November 16, 1999</u> (Filing Date)	<u>Pending</u> (Status) (patented, pending, abandoned)
<u>09/440,676</u> (Application Serial No.)	<u>November 16, 1999</u> (Filing Date)	<u>Pending</u> (Status) (patented, pending, abandoned)
<u>09/440,493</u> (Application Serial No.)	<u>November 15, 1999</u> (Filing Date)	<u>Pending</u> (Status) (patented, pending, abandoned)
<u>09/439,878</u> (Application Serial No.)	<u>November 12, 1999</u> (Filing Date)	<u>Pending</u> (Status) (patented, pending, abandoned)
<u>09/440,370</u> (Application Serial No.)	<u>November 12, 1999</u> (Filing Date)	<u>Pending</u> (Status) (patented, pending, abandoned)
<u>09/268,865</u> (Application Serial No.)	<u>March 15, 1999</u> (Filing Date)	<u>Pending</u> (Status) (patented, pending, abandoned)

Direct all telephone calls to David J. Brezner, Esq. at (415) 781-1989.

Address all correspondence to:

FLEHR HOHBACH TEST
ALBRITTON & HERBERT LLP
Suite 3400, Four Embarcadero Center
San Francisco, California 94111

File No. A-67860-3/DJB/RMS/DAV

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Title 18, United States Code, §1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of sole or
first inventor:

David Mack

Inventor's signature:

David Mack

Date:

7/14/00

Residence:

2076 Monterey Avenue, Menlo Park, California 94025

Citizenship:

United States of America

Post Office Address:

2076 Monterey Avenue, Menlo Park, California 94025

Full name of joint or
Second inventor:

Kurt C. Gish

Inventor's signature:

Kurt C. Gish

Date:

7/14/00

Residence:

4302 23rd Street, San Francisco, California 94114

Citizenship:

United States of America

Post Office Address:

4302 23rd Street, San Francisco, California 94114

Applicant or Patentee: David Mack, et al.

Serial or Patent No.: 09/525,361

Filed or Issued: March 15, 2000

Attorney's Pocket No.: A-67860-3/DJB/RMS/DAV

For: NOVEL METHODS OF DIAGNOSING AND TREATING BREAST CANCER, COMPOSITIONS, AND METHODS OF SCREENING FOR BREAST CANCER MODULATORS

**VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS
(37 CFR 1.9(f) and 1.27(c)) - SMALL BUSINESS CONCERN**

I hereby declare that I am

☐ the owner of the small business concern identified below:

☒ an official of the small business concern empowered to act on behalf of the concern identified below:

NAME OF SMALL BUSINESS CONCERN:

Eos Biotechnology, Inc.

ADDRESS OF SMALL BUSINESS CONCERN:

225A Gateway Blvd.

South San Francisco, CA 94080

I hereby declare that the above identified small business concern qualifies as a small business concern as defined in 13 CFR 121.12, and reproduced in 37 CFR 1.9(d), for purposes of paying reduced fees to the United States Patent and Trademark Office, United States Code, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention entitled, NOVEL METHODS OF DIAGNOSING AND TREATING BREAST CANCER, COMPOSITIONS, AND METHODS OF SCREENING FOR BREAST CANCER MODULATORS by inventor(s) David Mack and Kurt C. Gish, described in

☐ the specification filed herewith

☒ application serial no. 09/525,361, filed March 15, 2000

☐ patent no. _____, issued _____

If the rights held by the above identified small business concern are not exclusive, each individual, concern or organization having rights in the invention is listed below* and no rights to the invention are held by any person, other than the inventor, who would not qualify as an independent inventor under 37 CFR 1.9(c) if that person made the invention, or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d), or a nonprofit organization under 37 CFR 1.9(e). *NOTE: Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 CFR 1.27)

NAME: _____

ADDRESS: _____

☐ INDIVIDUAL

☐ SMALL BUSINESS CONCERN

☐ NONPROFIT ORGANIZATION

NAME: _____

ADDRESS: _____

☐ INDIVIDUAL

☐ SMALL BUSINESS CONCERN

☐ NONPROFIT ORGANIZATION

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b)).

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF PERSON SIGNING

David W. Martin, Jr., M.D.

TITLE IN ORGANIZATION

President & Chief Executive Officer

ADDRESS OF PERSON SIGNING

225A Gateway Blvd.

South San Francisco, CA 94080

SIGNATURE _____

DATE _____



POWER OF ATTORNEY BY ASSIGNEE

(Not Accompanying Application)

To the Commissioner of Patents and Trademarks:

The undersigned assignee of the entire interest in application for letters patent entitled:
NOVEL METHODS OF DIAGNOSING AND TREATING BREAST CANCER, COMPOSITIONS, AND
METHODS OF SCREENING FOR BREAST CANCER MODULATORS

and having the named inventors:

David Mack and Kurt C. Gish

Serial No. 09/525,361 filed on or about the 15th day of March, 2000.

hereby appoints the following attorneys to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith; said appointment to be to the exclusion of the inventor(s) and his (their) attorney(s) in accordance with the provisions of 37 C.F.R. 1.32

Harold C. Hohbach, Reg. No. 17,757; Aldo J. Test, Reg. No. 18,048; Thomas O. Herbert, Reg. No. 18,612; Donald N. MacIntosh, Reg. No. 20,316; Edward S. Wright, Reg. No. 24,903; David J. Brezner, Reg. No. 24,774; Richard E. Backus, Reg. No. 22,701; James A. Sheridan, Reg. No. 25,435; Robert B. Chickering, Reg. No. 24,286; Richard F. Trecartin, Reg. No. 31,801; Steven F. Caserza, Reg. No. 29,780; Michael A. Kaufman, Reg. No. 32,988; Janet E. Muller, Reg. No. 35,294; Edward N. Bachand, Reg. No. 37,085; R. Michael Ananian, Reg. No. 35,050; Stephen M. Knauer, Reg. No. 38,208; Robin M. Silva, Reg. No. 38,304; David C. Ashby, Reg. No. 36,432; Julian Caplan, Reg. No. 14,785; Dolly A. Vance, Reg. No. 39,054;

provided that if any one of said attorneys ceases being affiliated with the law firm of Flehr Hohbach Test Albritton & Herbert LLP as partner, employee or of counsel, such attorney's appointment as attorney and all powers derived therefrom shall terminate on the date such attorney ceases being so affiliated.

In accordance with 37 CFR 3.73 the assignee hereby certifies that the evidentiary documents with respect to its ownership have been reviewed and that, to the best of assignee's knowledge and belief, title is in the assignee seeking to take this action.

Direct all telephone calls to David J. Brezner, Esq. at (415) 781-1989.

Address all correspondence to:

FLEHR HOHBACH TEST
ALBRITTON & HERBERT LLP
Suite 3400, Four Embarcadero Center
San Francisco, California 94111-4187

Assignee: Eos Biotechnology, Inc.

By: David W. Martin, Jr., M.D.
(typed name)

Signature: _____

Title: President & Chief Executive Officer

Address: 225A Gateway Blvd.

South San Francisco, California

Date: July 14, 2000

File No. A-67860-3/DJB/RMS/DAV